



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, September 15, 2010

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg, Rev. Anthony Coleman, Jim King and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor Tumlin called the meeting to order at 7:00 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Goldstein to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin asked everyone to remain standing for the pledge of alliance.

PRESENTATIONS:

20101026 City-County Communications & Marketing Association (3-CMA) First Place National Award to Marietta for exceptional public information delivery

Recognition of the city of Marietta winning the National First Place Award from the City-County Communications and Marketing Association for best digital interactive public information program in the United States. Matthew Daily, manager of this program, will be presented with the National Award which was recently given at the 3-CMA National Convention.

Presented

20100887 Georgia Chief of the Year

Recognition by Mayor Steve Tumlin and the City Council of Chief Daniel Flynn winning the "Georgia Chief of the Year" award by the Georgia Association of Chiefs of Police (GACP).

Presented

20100924 Recognition of Fleet Maintenance

Fleet Equipment Magazine named Marietta's internal program to maintain its vehicles one of the top 100 in the country for the fifth year in a row.

Presented

PROCLAMATIONS:**20100957 Proclamation - Public Power Week**

Rodney Scarbro receives a Proclamation declaring October 10-16, 2010 as the 24th annual Public Power Week in order to celebrate the benefits and contributions of hometown utilities to the community.

Presented

20100958 Proclamation - Clean Water Week

Ms. Karmen Scarbro receives a Proclamation declaring October 10-16, 2010 as Clean Water Week in the City of Marietta.

Presented

20100973 Proclamation -October 3-9, 2010 as "Smoke Alarms: A sound you can live with!" week

Proclamation presented to George McKeegan, Marietta Fire Department, declaring the week of October 3-9, 2010, as "Smoke Alarms: A sound you can live with!" that encompasses developing a safety plan to include smoke alarms and residential sprinkler installations and maintenance, as well as a home fire inspection plan to aid in preventing and limiting home fires.

Presented

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:**CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

The following amendments were made to the consent agenda:

A motion was made by Council member Goldstein, seconded by Council member King, to suspend the rules of order to add three items to the consent agenda regarding the Denial of claim of Bobby Adkins, the purchase of property located at 385 N Marietta Parkway and condemnation of property located at 591 S Marietta. (See agenda items 20101049, 20101032 and 20101047)

Mayor Tumlin left the Council Chamber due to a conflict regarding an agenda item. Mayor Pro tem Annette Lewis reviewed amendments to the Consent agenda.

-under Public Works: Agenda item 20100849 Grass Height was added to the consent agenda. Agenda item 20100969 was removed from the consent agenda.

-under Other Business: Agenda item 20100951 was amended to remove the disclosure by Council member Goldstein.

A motion was made by Council member King, seconded by Council member Sinclair, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved
with the following exceptions:
Council member Pearlberg abstaining on agenda item 20101024

MINUTES:

- * **20101006 Regular Meeting - August 11, 2010**
- Review and approval of the August 11, 2010 regular meeting minutes.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0 Approved**
- * **20101014 Special Meeting - September 8, 2010**
- Review and approval of the September 8, 2010 special meeting minutes.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0 Approved**

MAYOR'S APPOINTMENTS:

CITY COUNCIL APPOINTMENTS:

ORDINANCES:

20100884 Z2010-08 Amrep, Inc. 984 and 990 Industrial Park Drive and 1007 Marietta Industrial Drive[Ord 7495](#)

Z2010-08 [REZONING] AMREP, INC. request rezoning for property located in Land Lots 10000 and 09990, District 16, Parcels 0110, 0120 and 0130, 2nd Section, Marietta, Cobb County, Georgia and being known as 984 and 990 Industrial Park Drive and 1007 Marietta Industrial Drive from LI (Light Industrial) to HI (Heavy Industrial). Ward 5.

Planning Commission recommends approval w/stipulations

Vote: 3 – 0 – 1 with Mrs. Watkins abstaining as she is employed by ep, Mfg. who recently purchased AMREP.

Motion: Mr. Diffley moved to approve the rezoning to include the Letter of Stipulations dated August 31, 2010, seconded by Mr. Carter.

Stipulation: To include the Letter of Stipulations from Parks F. Huff to Russell J. Roth dated August 31, 2010.

PUBLIC HEARING (all parties are sworn in)

Mayor Tumlin opened the public hearing. City Attorney Douglas Haynie explained the rules of order and asked if there was anyone present in opposition of the rezoning. No one came forward in opposition of this matter.

Attorney for the applicant, Parks Huff with Sams, Larkin and Huff, requested rezoning for property located at 984 and 990 Industrial Park Drive and 1007 Marietta Industrial Drive from LI (Light Industrial) to HI (Heavy Industrial). Mr. Huff referenced stipulations letters dated September 7th and September 15th regarding this matter.

Mayor Tumlin closed the public hearing.

Discussion was held.

Motion to approve the rezoning request, with the following stipulations attached as conditions of zoning:

- Stipulation letter from Parks F. Huff to Russell J. Roth dated September 7, 2010, including the following change to item #3 of that letter: deleting the phrase at the end of the paragraph that states “as depicted in the site plan.” and replacing it with the phrase “at the direction of staff.”*

- Stipulation letter from Parks F. Huff to Russell J. Roth dated September 15, 2010, including the revision to the list of excluded uses, such that the letter would read: “As an addition to these stipulations, the applicant would agree to exclude the following uses from the proposed HI approval: 1) mining; 2) junk or salvage yard; 3) truck terminal; 4) funeral home; 5) animal hospital; 6) automobile storage yard; 7) automobile repair shop; 8) waste transfer station; and 9) asphalt plants.”*

The motion was made by Council member Coleman, seconded by Council member Goldstein, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved as Stipulated

20100893 Z2010-09 Fred H. Moore 120 Mountain View Road

[Ord 7496](#)

Z2010-09 [REZONING] FRED H. MOORE request rezoning for property located in Land Lot 12240, District 16, Parcel 0360, 2nd Section, Marietta, Cobb County, Georgia and being known as 120 Mountain View Road from R-2 (Single Family Residential 2 units/acre) to R-4 (Single Family Residential 4 units/acre). Ward 3.

Planning Commission recommends approval as submitted Vote: 4 – 0 – 0

Motion: Mrs. Watkins made a motion to recommend to City Council that this rezoning be approved, as submitted, seconded by Mr. Diffley.

Stipulation: n/a

PUBLIC HEARING (all parties are sworn in)

Mayor Tumlin opened the public hearing.

The applicant, Fred H. Moore, requested rezoning for property located at 120 Mountain View Road from R-2 (Single Family Residential 2 units/acre) to R-4 (Single Family Residential 4 units/acre) in order to build two homes on the site. Mr. Moore referenced the plat submitted to Council for review.

Mayor Tumlin closed the public hearing.

Discussion was held.

Motion to approve the rezoning request, with the following stipulations attached as conditions of zoning:

- 1. Any structures built on the property will not include vinyl siding.*
- 2. House plans for any house built on the property will not be a split foyer plan.*
- 3. Houses on both lots will have four-sided architecture.*

The motion was made by Council member Sinclair, seconded by Council member Goldstein, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved as Stipulated

RESOLUTIONS:**CITY ATTORNEY'S REPORT:**

- * **20101049 Denial of Claim**
- Denial of claim of Bobby Adkins.
- This Matter was Approved to Deny on the Consent Agenda.**
- Vote: 7 - 0 - 0 Approved to Deny**

CITY MANAGER'S REPORT:**MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson**

- * **20100949 2011 CDBG Program Funding**
- [Res 1499](#) Approval of a Resolution authorizing the City's FFY2011CDBG submittal of HUD updated project list.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0 Approved**

2. Finance/Investment: Annette Lewis, Chairperson

- * **20100941 Fiscal Year 2011 Audit**
- Motion approving audit services by Moore & Cubbedge for current Fiscal Year 2011.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0 Approved**
- * **20100942 Capital Asset Purchase Plan**
- [Res 7491](#) Approval of an Ordinance amending the Fiscal Year 2010 Budget to appropriate and transfer \$860,000 in planned savings from the General Fund to the Citywide Projects Fund for the future purchase of capital assets.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0 Approved**

* **20100974 Capital Asset Purchases**

Ord 7492

Approval of an Ordinance amending the FY2011 Citywide Projects Fund Budget to appropriate \$860,000 of prior year planned savings for purchase of capital assets.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20100943 Edward Byrne Memorial Justice Assistance Grant**

Ord 7493

Approval of an Ordinance amending the Fiscal Year 2011 Grant Fund to receive and appropriate a grant from the Department of Justice for \$53,995 to purchase two police vehicles for uniform patrol.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20100944** **Law Enforcement Grant from Target Stores**

Ord 7494

Approval of an Ordinance amending the Fiscal Year 2011 General Fund to receive and appropriate a donation from Target Stores for \$1,000 for public relations events.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

* **20100968** CA2010-07 Amendment to the Comprehensive Development Code regarding Definition of Terms

CA2010-07 [CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta, Section 724.02, Definition of Terms

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

* **20100899** **Pocket Park**

Motion to approve the concept to allow the land on the North Loop between Church Street and Cherokee Street to be used as a pocket park.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

5. Personnel/Insurance: Van Pearlberg, Chairperson

20101022 CareHere, LLC Contract

Motion to approve a contract between the city of Marietta and CareHere, LLC for the establishment of a city of Marietta/BLW medical office.

Discussion was held regarding changes to the proposed contract with CareHere, LLC.

A motion was made by Council member Pearlberg, seconded by Council member Chalfant, to postpone this matter for a Special Called Meeting September 29, 2010, with a town hall meeting to be scheduled before that date. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

20100931 Group Health Plan Administration and City Medical Office

Motion to approve the renewal of the group health plan administration with Blue Cross/Blue Shield of Georgia, Inc. for calendar year 2011 and to approve the contribution rate structures, including the establishment of a City of Marietta/BLW medical office. In the event the mandated changes made in whole or in part to the city's plan to come into compliance with the 2010 National Health Care Reform Law as passed on February 23, 2010 are found to be unconstitutional or unenforceable, are rescinded, or are repealed or become discretionary, then those portions of the city's plan shall be deleted automatically, rescinded and revoked consistent with such action without any further action of the City Council of the City of Marietta. Further, authority is requested to approve the administrative agreement with Blue Cross/Blue Shield of Georgia, Inc.

A motion was made by Council member Pearlberg, seconded by Council member Chalfant, to postpone this matter for a Special Called Meeting September 29, 2010, with a town hall meeting to be scheduled before that date. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

*

20100950 Historic Preservation Commission Appointments

Appointment of David Freedman (Ward 2) and Ray Worden (Ward 4) to the Marietta Historic Preservation Commission for a three-year term expiring September 14, 2013.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20100953 National League of Cities (NLC)**

Motion approving travel expenses for Mayor and Council members who wish to attend the National League of Cities (NLC) Congressional City Conference in Denver, CO, November 30 - December 4, 2010.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20100849 Grass height**

[Ord 7487](#)

Approval of an Ordinance amending Code Section 7-4-2-110, Sanitary Conditions and Procedures regarding grass height and fines.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

6. Public Safety Committee: Anthony Coleman, Chairperson

* **20100922 City Emergency Operations Plan (MEOP)**

Motion approving the Emergency Operations Plan as presented.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

7. Public Works Committee: Jim King, Chairperson

* **20100935 Stokes Avenue and Philips Drive**

No Parking Signs - Stokes Avenue

Motion authorizing Public Works to install signs along the following sections of public streets:

No Parking on Street signs along both sides of Stokes Avenue from Lakewood Avenue to Phillips Drive;

No Parking along South Side of Phillips Drive from the western property line of 348 Stokes Avenue to Stokes Avenue;

No Parking along the North Side of Phillips Drive from the western property line of 385 Phillips Drive to Stokes Avenue.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20100937 Lockheed Avenue No Parking Zone**

Motion authorizing Public Works to install signs stating "No parking Any Time" along the east frontage of Lockheed Avenue between the driveways to 339 and 351 Lockheed Avenue.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20100938 Kennesaw Mountain to Chattahoochee Trail South Section**

Motion to approve the contract with the Georgia Department of Transportation for the purchase of Right of Way for the Kennesaw Mountain to Chattahoochee Trail South Section ROW project.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

20100969 City Council Resolution - March 2011 SPLOST

Res 1500

Approval of a Resolution of request for Cobb County to move forward with the March 2011 SPLOST.

Motion to approve the resolution with amendment to the last Whereas that would read, "WHEREAS, funding for transportation, infrastructure, trails, sidewalks, traffic calming devices, emergency service, and capital project improvements is key to implementing these improvements throughout the city;"

The motion was made by Council member King, seconded by Council member Anthony, that this matter be approved. The motion carried by the following vote:

Vote: 3 - 2 - 2

Approved

Voting Against: Annette Lewis and Philip M. Goldstein

Abstaining: Johnny Sinclair and Van Pearlberg

SCHEDULED APPEARANCES:

20100927 Scheduled Appearance - Yousaf Shaikh

Dorsey Manor, 117 Haynes Street, Apt. 420

Speaking relative to Comcast at 217 Cobb Parkway - lack of public restroom facilities.

Not Present

UNSCHEDULED APPEARANCES:**OTHER BUSINESS:****20100312 V2010-08 Georgia-Cumberland Association (Marietta Seventh Day Adventist Church) 1440 Field Park Circle**

Motion to Approve V2010-08 [VARIANCE] GEORGIA-CUMBERLAND ASSOCIATION (MARIETTA SEVENTH DAY ADVENTIST CHURCH) variances for property located in Land Lot 08680, District 16, Parcel 0080 and being known as 1440 Field Park Circle. Ward 4.

1. Variance to locate an additional use on a parcel with an existing general advertising/off-premise sign;
2. Variance to reduce the required distance between a general advertising/off-premise sign and a church or school from 500 feet to 204 feet;
3. Variance to reduce the minimum driveway width from 20 feet to 15 feet.

Mayor Tumlin called forward those wishing to speak regarding this matter.

Darrell Starkey, representing the Georgia-Cumberland Association (Marietta Seventh Day Adventist Church), requested variances for property located at 1440 Field Park Circle. The request included a variance to locate an additional use on a parcel with an existing general advertising/off-premise sign; a variance to reduce the required distance between a general advertising/off-premise sign and a church or school from 500 feet to 204 feet; and a variance to reduce the minimum driveway width from 20 feet to 15 feet.

Discussion was held regarding the variance request and the existing billboard on the property.

A motion was to deny the variance request.

The motion was made by Council member Lewis, seconded by Council member Coleman, to deny this matter. The motion carried by the following vote:

Vote: 6 - 0 – 1 Denied
Abstaining: Rev. Anthony Coleman

*

20100951 V2010-21 First Landmark Bank 307 N. Marietta Parkway

Motion to Approve V2010-21 [VARIANCE] FIRST LANDMARK BANK request variance for property located in Land Lot 11440, District 16, Parcel 2170 and being known as 307 North Marietta Parkway. Variance to eliminate the required 6-foot privacy fence along the western property line adjacent to 264 Fowler Circle.

Mayor Steve Tumlin has an ownership interest in First Landmark Bank.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20100959 Preston Chase Demolition**

Motion to approve \$410,643.00 to be allocated from the Park Bond funds for the demolition of the Preston Chase Apartment Complex from the line item 'Development of Parks, Facilities, Trails and Greenspace'.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20101023 Agreement for Livable Centers Initiative Project**

[C/A 3818](#)

Motion to approve the Agreement for Livable Centers Initiative Project between Department of Transportation State of Georgia and City of Marietta for the construction of the Roswell Street Streetscapes Phase II.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20101024 Cobb County Parking Deck Erection Schedule and Street Closures**

Motion to approve a request from Choate Construction to temporarily close west bound Lawrence Street lanes between Waddell and Haynes Street beginning September 16, 2010 through October 8, 2010 and temporary road closure on Haynes Street between Lawrence Street and Hansell Street beginning October 11, 2010 through December 17, 2010 for the erection of the Cobb County Parking Deck. Public Works is given the discretion to modify the closure dates as necessary.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Van Pearlberg

* **20101032 Condemnation of Property - 591 South Marietta Parkway**

Motion to authorize the acquisition of property owned by Rohrig Investments, L.P. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20101047 Property Acquisition - 385 N Marietta Parkway**

Motion to authorize the purchase of property owned by Philip E. Sledge, located at 385 N Marietta Parkway for \$260,000. The purchase is to be funded from the Parks Bond line item Land Acquisition.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20101010 BLW Actions of September 13, 2010**

Review and approval of the September 13, 2010 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

ADJOURNMENT:

The meeting was adjourned at 8:51 p.m.

Date Approved: 10/13/10

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk